D.B. INCOME TAX APPEAL NO.27/2006
13.4.2006

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA

HON'BLE MR. JUSTICE R.P.VYAS

Mr.Sangeet Lodha, for the appellant.

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Having heard the learned counsel for the appellant, we are satisfied that there is no error in the judgment of the Tribunal and it does not give rise to any substantial question of law.

The facts of the case are that the respondent – Unit had filed its return of income for the assessment year 1995-96 claiming that its income is exempt from tax and not liable to be included in total taxable income in terms of Section 10(24) of the Income Tax Act, 1961. The claim was rejected by the Assessing Officer inter alia on the ground that since Trade Union of the truck operators was formed for the purpose of seeing that they get charging freight rate and not for the purpose of regulating the relationship between workmen and the employer and between workmen and workmen, the claim to exemption does not fall within the purview of Section 10(24) of the Act of 1961.

The order of the assessing officer rejecting the claim under Section 10(24) of the Act of 1961 was affirmed by

the CIT (appeals) and the learned Tribunal.

During the course of assessment proceedings, the assessing officer has also initiated proceedings under Section 271(1)(c) for levying penalty for concealment of income and levied penalty thereon.

The order of penalty was challenged by the assessee. The CIT (A) upheld the levy of penalty.

The Tribunal, however, was of the opinion that the assessee having laid the claim for exemption which was not found tenable ultimately, does not make a case of deliberate concealment of income, but is a case of bonafide contesting claim of exemption and, therefore, the penalty was not leviable.

We are of the opinion that no exception can be taken to the view taken by the Tribunal as merely because claim to exemption is found to be not tenable, the penalty cannot be levied. The appeal is accordingly, dismissed. No order as to costs.

(R.P.VYAS)J. (RAJESH BALIA)J.

Ss/